	Application No.	Applicant(s)
Notice of Allowability	10/023,066	FALCO, SAVERIO CARL
	Examiner	Art Unit
	Elizabeth F. McElwain	1638
The MAILING DATE of this communication apperature All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIOF of the Office or upon petition by the applicant. See 37 CFR 1.313	ears on the cover sheet with to (OR REMAINS) CLOSED in the or other appropriate communic IGHTS. This application is subj	he correspondence address is application. If not included cation will be mailed in due course. THIS
1. This communication is responsive to phone interview of 4/	<u>19/05</u> .	•
2. The allowed claim(s) is/are 41-45 and 49-51.		,
3. The drawings filed on 29 April 2002 are accepted by the Examiner.		
 4. Acknowledgment is made of a claim for foreign priority unally all b) Some* c) None of the: 1. Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority do International Bureau (PCT Rule 17.2(a)). * Certified copies not received: Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONM THIS THREE-MONTH PERIOD IS NOT EXTENDABLE. 	e been received. e been received in Application No cuments have been received in of this communication to file a	lo this national stage application from the
5. A SUBSTITUTE OATH OR DECLARATION must be subm INFORMAL PATENT APPLICATION (PTO-152) which give		
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.		
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached		
1) hereto or 2) to Paper No./Mail Date		
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date		
Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in t		
7. DEPOSIT OF and/or INFORMATION about the depo attached Examiner's comment regarding REQUIREMENT		
Attachment(s) 1. Notice of References Cited (PTO-892) 2. Notice of Draftperson's Patent Drawing Review (PTO-948) 3. Information Disclosure Statements (PTO-1449 or PTO/SB/O Paper No./Mail Date	6. ⊠ Interview Sum Paper No./Ma 08), 7. ⊠ Examiner's Am	il Date <u>4/20/05</u> .
	<u>. </u>	

Application/Control Number: 10/023,066

Art Unit: 1638

EXAMINER'S AMENDMENT

Page 2

1. An examiner's amendment to the record appears below. Should the changes and/or

additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the

payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with

Lynne Christenbury on April 19, 2005.

The application has been amended as follows:

IN THE SPECIFICATION

The first paragraph of the specification has been replaced with the following:

This is a divisional of Serial No. 08/823,771, filed on 3/24/97, now U.S. Patent

6,459,019, which is a divisional of Serial No. 08/474,633, filed on 6/7/95, now U.S. Patent

5,773,691, which is a continuation-in-part of Serial No. 08/178,212, filed on 1/6/94, now

abandoned, which was the national filing of PCT/US93/02480, filed on 3/18/93 and which is a

continuation-in-part of Serial No. 07/855,414, filed on 3/19/92.

IN THE CLAIMS

The previous listing of the claims is replaced with the following:

Claims 1-40 (cancelled)

Application/Control Number: 10/023,066 Page 3

Art Unit: 1638

Claim 41. (previously presented) A plant comprising in its genome two foreign nucleotide sequences which cause seeds obtained from said plant to accumulate lysine at a level of at least ten percent higher than do seeds of a plant which do not comprise said foreign nucleotide sequences in its genome wherein the foreign nucleotide sequences each comprise a nucleic acid fragment, said fragments being different from each other, and said fragments each being operably linked to a plant seed specific promoter and said fragments are (a) a nucleic acid fragment encoding an aspartokinase which is substantially insensitive to lysine inhibition and further wherein said fragment encoding a dihydrodipicolinic acid synthase which is substantially insensitive to lysine inhibition and further wherein said fragment is operably linked to a plant chloroplast transit sequence, and (b) a nucleic acid fragment inhibition and further wherein said fragment is operably linked to a plant chloroplast transit sequence.

- Claim 42. (previously presented) The plant of claim 41 wherein said plant is selected from the group consisting of rapeseed, soybean, and corn.
- Claim 43. (currently amended) Progeny plants from the plant of claim 41 or 42 wherein said progeny plants comprise in their genome the two foreign nucleotide sequences of the plant of claim 41.
- Claim 44. (currently amended) Seeds obtained from the plants of claims claim 41 or 42 wherein said seeds comprise in their genome the two foreign nucleotide sequences of the plant of claim 41.
- Claim 45. (currently amended) Seeds obtained from the progeny plants of claim 43 wherein said seeds comprise in their genome the two foreign nucleotide sequences of the plant of claim 41.

Claims 46-48 (cancelled)

- Claim 49, (new) The progeny plants of claim 43 wherein said plants are selected from the group consisting of rapeseed, soybean, and corn.
- Claim 50. (new) The seeds of claim 44 wherein wherein said plants are selected from the group consisting of rapeseed, soybean, and corn.

Application/Control Number: 10/023,066 Page 4

Art Unit: 1638

Claim 51. (new) The seeds of claim 45 wherein said plants are selected from the

group consisting of rapeseed, soybean, and corn.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Elizabeth F. McElwain whose telephone number is (571) 272-

0802. The examiner can normally be reached on increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Amy Nelson can be reached on (571) 272-0804. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elizabeth F. McElwain, Ph.D.

PR7MELL-

Primary Examiner

Art Unit 1638

EFM